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8 Attorney for Defendant
9 CY IRVING BROWN

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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,) No. CR-S 03-104-MCE
Plaintiff,)
v.) STIPULATION AND ORDER
CY IRVING BROWN,)
Defendant.) Hon. Morrison C. England, Jr.
)

Defendant Cy Irving Brown, through his counsel John Balazs, and the United States, through its counsel, Assistant U.S. Attorney Heiko P. Coppola, hereby stipulate and request that the Court vacate the briefing schedule and October 10, 2006 hearing in this case.

In a Memorandum Decision filed March 23, 2006, the Ninth Circuit affirmed Mr. Brown's conviction for armed bank robbery, but remanded for a hearing to determine whether the Court would have imposed the same sentence if it had known at the time that the guidelines would later be found to "advisory" only, pursuant to United States v. Ameline, 409 F.3d 1073, 1074 (9th Cir. 2005). The reason for this

1 request is that the defendant Cy Irving Brown, after consultation with
2 his attorney, waives his right to have his sentence reconsidered under
3 Ameline, and instead he elects to stand on the sentence originally
4 imposed by the Court.

5 Mr. Brown's signed statement waiving his right to re-sentencing is
6 attached to this stipulation as Attachment 1.

7 Dated: August 13, 2006

8 Respectfully submitted,

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10 /s/ John Balazs
JOHN BALAZS

11 Attorney for Defendant
CY IRVING BROWN
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13 Dated: August 13, 2006

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MCGREGOR W. SCOTT
U.S. Attorney

By:

/s/ Heiko P. Coppola
HEIKO P. COPPOLA
Assistant U.S. Attorney
[signed with permission]

ORDER

IT IS SO ORDERED. The October 10, 2006 hearing on re-sentencing
is hereby vacated.

Dated: August 14, 2006


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MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE